

AMENDED IN SENATE AUGUST 23, 2005  
AMENDED IN ASSEMBLY MARCH 30, 2005  
CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 446**

---

**Introduced by Assembly Member Negrete McLeod**  
(Principal coauthor: Senator Figueroa)

February 15, 2005

---

An act to add Section 143.5 to the Business and Professions Code, relating to professions and vocations.

### LEGISLATIVE COUNSEL'S DIGEST

AB 446, as amended, Negrete McLeod. Licensees: settlement agreements.

Existing law provides that it is a cause for suspension, disbarment, or other discipline for an attorney to agree or seek agreement that the professional misconduct or the terms of a settlement of a claim for professional misconduct is not to be reported to the disciplinary agency, or to agree or seek agreement that the plaintiff shall withdraw a disciplinary complaint or not cooperate with an investigation or prosecution conducted by the disciplinary agency.

This bill would prohibit a licensee who is regulated by the Department of Consumer Affairs or various boards, bureaus, or programs, or an entity acting on behalf of a licensee, from including or permitting to be included a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program, or that requires the other party to withdraw a complaint from the department, board, bureau, or program. A licensee in violation of these provisions would be subject to disciplinary action

by the board, bureau, or program. *The bill would also prohibit a board, bureau, or program from requiring its licensees in a disciplinary action that is based on a complaint or report that has been settled in a civil action to pay additional moneys to the benefit of any plaintiff in the civil action.*

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 143.5 is added to the Business and  
2 Professions Code, to read:

3 143.5. (a) No licensee who is regulated by a board, bureau,  
4 or program within the Department of Consumer Affairs, nor an  
5 entity acting on behalf of a licensee, shall include or permit to be  
6 included a provision in an agreement to settle a civil dispute,  
7 whether the agreement is made before or after the  
8 commencement of a civil action, that prohibits the other party in  
9 that dispute from contacting, filing a complaint with, or  
10 cooperating with the department, board, bureau, or program or  
11 that requires the other party to withdraw a complaint from the  
12 department, board, bureau, or program. A provision of that nature  
13 is void as against public policy, and any licensee who includes or  
14 permits to be included a provision of that nature in a settlement  
15 agreement is subject to disciplinary action by the board, bureau,  
16 or program.

17 (b) *Any board, bureau, or program within the Department of*  
18 *Consumer Affairs that takes disciplinary action against a*  
19 *licensee or licensees based on a complaint or report that has also*  
20 *been the subject of a civil action, which has been settled for*  
21 *monetary damages providing for full and final satisfaction of the*  
22 *parties, may not require its licensee or licensees to pay any*  
23 *additional sums to the benefit of any plaintiff in the civil action.*

24 (c) As used in this section, “board” shall have the same  
25 meaning as defined in Section 22, and “licensee” means a person  
26 that has been granted a license, as that term is defined in Section  
27 23.7.

O